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July 24, 2003

By Messenger
Mary L. Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Docket D.T.E. 01-20 – Verizon's Improper Attempt to Ignore Prior Department Orders Regarding Further Investigation of an Alternative Hot Cut Process and Rates

Dear Ms. Cottrell:

By e-mail notice dated July 21, 2003, the Hearing Officer requested comments on the motion filed by Conversent Communications of Massachusetts, LLC for reconsideration of the Commission's stamp-approval of Verizon Massachusetts' July 16, 2003, revised compliance filing, which followed the Department's July 14, 2003 Letter Order. AT&T Communications of New England, Inc., respectfully urges the Department to grant Conversent's motion for reconsideration. AT&T submits its comments in the form of this letter, in lieu of a brief.

When Verizon made what was supposed to be its final compliance filing on July 16, 2003, Verizon represented that its "filing is made in accordance with the Department's Letter Order dated July 14, 2003." Based on the representation, the Department promptly stamp-approved Verizon's compliance filing without further investigation. After all, if Verizon's representation was true and accurate, then there should be no need for any further review. Unfortunately, Verizon's assertion was not accurate. Rather than comply with the July 14 letter order, Verizon instead violated that order by: (i) changing the existing hot cut rates; and (ii) making those changes retroactive to August 5, 2002.

In its Letter Order dated July 14, 2003, at page 7, the Department reiterated that Verizon may not charge new rates for manual hot cuts until the Department completes its review of the alternative, process proposed by Verizon to take advantage of efficiencies available due to its relatively new Wholesale Provisioning Tracking System ("WPTS"). In so doing, the Department rejected a further attempt by Verizon to change its hot cut rates at this time. This most recent order is consistent with the explicit prior rulings by the Department that Verizon's existing hot cut rates must remain in effect until a more efficient alternative has been priced and approved, and that when new rates for the old fully-manual hot cut process are allowed to take effect they will not be retroactive. In an order issued July 30, 2002, the Department held that all of Verizon's new UNE rates ***except for*** its hot cut rates would take effect as of August 5, 2002, but that "the intent of the Department's

directive that Verizon offer CLECs a less costly alternative to the hot cut process as expressed in the Order at 499-500, would be undermined if the Department permitted Verizon to retroactively true-up this rate." D.T.E. 01-20, July 30, 2002 Procedural Order, at 19. Verizon subsequently sought clarification regarding the parameters it would be permitted to consider in developing a proposal for a more efficient hot cut alternative. In its February 12, 2003, letter order clarifying the Department's intent on this issue, the Department reiterated that Verizon's proposed alternative hot cut process and rates would be subject to investigation and review by the Department. Finally, on March 4, 2003, the Department announced that it would not undertake this review during the compliance phase of this docket, but instead would open a new proceeding to investigate and adopt an alternative hot cut process. (Just yesterday, the New York Public Service Commission announced that it too will undertake a similar investigation. Administrative Law Judge Joel Linsider ordered Verizon-New York to provide a separate cost study for a WPTS-based hot cut process to kick-off that investigation.) At no time did Verizon seek reconsideration of or otherwise challenge any of these decisions.

When it made its July 16 compliance filing, Verizon chose to ignore the Department's repeated directives, as reiterated in the July 14 letter order. It tried to justify doing so on the ground that its billing systems would not permit it to change the non-recurring charges for new loops without also changing the non-recurring charge for hot cuts made on existing loops. *See* Verizon's July 16 cover letter, footnote 1. This amounts to an untimely and improper motion for reconsideration, asking the Department to revisit yet again the issue of hot cut pricing and offering an entirely new justification for Verizon's continued efforts to subvert the Department's clear rulings on this issue.

Verizon did not present its arguments as a formal motion for reconsideration, perhaps because Verizon recognized that it could not satisfy the standards for such a motion. Verizon's unsupported claims regarding billing system limitations does not constitute information previously unknown by Verizon. Furthermore, as Conversent explains in support of its motion, Verizon's claim regarding billing systems limitations cannot be squared with the known facts that: (i) Verizon uses the same UNE billing systems in Massachusetts and New York; and (ii) those billing systems have already been configured to support different non-recurring charges for hot cuts and new loops in New York. Verizon agreed to charge $35 for manual hot cuts in New York, which differs from the non-recurring charges it assess in New York for new loops.

In sum, it turns out that Verizon's "compliance filing" still does not comply with the Department's explicit orders. Verizon misled the Department into mistakenly stamp approving its compliance filing. For the reasons stated above and by Conversent, AT&T respectfully urges the Department to grant Conversent's motion, and to order Verizon to modify its tariff to continue the previous hot cut rates without change at this time.

Very truly yours,

Kenneth W. Salinger

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